

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION**

UNITED STATES OF AMERICA	§	
<i>ex rel.</i> JOHN N. KRAMER, D.D.S.,	§	
Relator,	§	
	§	CIVIL ACTION NO. 1:18-cv-373-DRC
v.	§	
	§	Judge Douglas R. Cole
CDC MARTINS FERRY, LLC, AND	§	
CDC STEUBENVILLE, LLC,	§	
Defendants.	§	

**DEFENDANTS CDC MARTINS FERRY, LLC AND CDC STEUBENVILLE, LLC’S
RESPONSE TO RELATOR’S MOTION TO FILE DOCUMENT UNDER SEAL**

Defendants CDC Martins Ferry, LLC and CDC Steubenville, LLC (“Defendants”) hereby file this response to relator’s motion to file under seal the Asset Purchase Agreement (“APA”) proposed as Exhibit A to his motion to join parties [Doc. 70]. As required by the Stipulated Protective Order in this case, Defendants state that the legal basis for the designation of the document as “Confidential-Attorneys’ Eyes Only” is that the APA contains sensitive information that could cause material competitive disadvantage to both Defendants and the other parties to the APA, including non-public and sensitive financial information, agreements between Defendants and other entities, and materials or items that relate to proprietary information about the Defendants’ and other parties’ business practices.

As recognized by the Sixth Circuit, agreements like the APA that themselves contain a confidentiality obligation, that have been designated as “Confidential” or “Attorneys’ Eyes Only,” and that contain contractual provisions that one party to the agreement views as providing it with competitive advantages that would, if revealed publicly, give such advantages to competitors or future acquisition targets, may be properly filed under seal when offered as an exhibit or appendix to a motion or legal brief. *Ray v. Found. Risk Partners, Corp.*, No. 22-3387,

2022 U.S. App. LEXIS 25954 [WL] at *3 (citing Ohio Rev. Code 1333.61(D) and *State ex rel. The Plain Dealer v. Ohio Dep't of Ins.*, 687 N.E.2d 661 (1997)).

Defendants therefore respectfully request that Relator's motion to file the APA under seal be granted.

December 20, 2022

/s/ Don Screen

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CDC MARTINS FERRY, LLC AND

CDC STEUBENVILLE, LLC

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2022, a true and correct copy of the above and foregoing document was served on all counsel of record through the Court's electronic filing system.

/s/ Elizabeth K. Stepp

Elizabeth K. Stepp